

Application No. 10/084,708
Amendment dated April 5, 2007
Reply to Office Action of November 14, 2006

REMARKS

Status Of Application

Claims 42-67 are pending in the application; the status of the claims is as follows:

Claims 50-55 are withdrawn from consideration.

Claims 42-49, and 56-67 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 6,738,491 B1 to Ikenoue et al ("patent '491") in view of U.S. Patent No. 5,363,202 to Udagawa et al ("Udagawa").

Claims 42, 46, 56, 59, 62, and 65 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 15 and 17 of U.S. Patent No. 5,671,277 to Ikenoue et al ("patent '277") in view of Udagawa.

Claims 42, 46, 56, 59, 62, and 65 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 15 and 17 of patent '277.

Amendments to the Specification

Amendments are being made to the specification to update all information regarding the related applications listed on page 1, paragraph [0001] of the specification.

Claim Amendment

Claims 50-55 have been cancelled.

Application No. 10/084,708
Amendment dated April 5, 2007
Reply to Office Action of November 14, 2006

Double Patenting Rejections

The provisional rejection of claims 42-49, and 56-67 under the judicially created doctrine of double patenting over claims 1-26 of patent '491 in view of Udagawa, is respectfully traversed based on the following.

It is noted that section 804.02 of the MPEP states that:

A rejection based on a nonstatutory type of double patenting can be avoided by filing a terminal disclaimer in the application or proceeding in which the rejection is made.

and further that:

The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection.

Accordingly, a terminal disclaimer prepared and executed in accordance with section 1490 of the MPEP is submitted herewith.

According, the provisional rejection of claims 42-49, and 56-67 under the judicially created doctrine of double patenting over claims 1-26 of patent '491 in view of Udagawa, be reconsidered and withdrawn.

The provisional rejection of claims 42, 46, 56, 59, 62, and 65 under the judicially created doctrine of double patenting over claims 15 and 17 of patent '277 in view of Udagawa, is respectfully traversed based on the following.

It is noted that section 804.02 of the MPEP states that:

A rejection based on a nonstatutory type of double patenting can be avoided by filing a terminal disclaimer in the application or proceeding in which the rejection is made.

Application No. 10/084,708
Amendment dated April 5, 2007
Reply to Office Action of November 14, 2006

and further that:

The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection.

Accordingly, a terminal disclaimer prepared and executed in accordance with section 1490 of the MPEP is submitted herewith.

According, the provisional rejection of claims 42, 46, 56, 59, 62, and 65 under the judicially created doctrine of double patenting over claims 15 and 17 of patent '277 in view of Udagawa, be reconsidered and withdrawn.

The provisional rejection of claims 42, 46, 56, 59, 62, and 65 under the judicially created doctrine of double patenting over claims 15 and 17 of patent '277, is respectfully traversed based on the following.

It is noted that section 804.02 of the MPEP states that:

A rejection based on a nonstatutory type of double patenting can be avoided by filing a terminal disclaimer in the application or proceeding in which the rejection is made.

and further that:

The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection.

Accordingly, a terminal disclaimer prepared and executed in accordance with section 1490 of the MPEP is submitted herewith.

Application No. 10/084,708
Amendment dated April 5, 2007
Reply to Office Action of November 14, 2006

According, the provisional rejection of claims 42, 46, 56, 59, 62, and 65 under the judicially created doctrine of double patenting over claims 15 and 17 of patent '277, be reconsidered and withdrawn.

CONCLUSION

Wherefore, in view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.

This Amendment does not increase the number of independent claims, does not increase the total number of claims, and does not present any multiple dependency claims. Accordingly, no fee based on the number or type of claims is currently due. However, if a fee, other than the issue fee, is due, please charge this fee to Sidley Austin LLP Deposit Account No. 18-1260.

Any fee required by this document other than the issue fee, and not submitted herewith should be charged to Sidley Austin LLP Deposit Account No. 18-1260. Any refund should be credited to the same account.

If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

Any other fee required for such Petition for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17, other than the issue fee,

Application No. 10/084,708
Amendment dated April 5, 2007
Reply to Office Action of November 14, 2006

and not submitted herewith should be charged to Sidley Austin LLP Deposit Account No. 18-1260. Any refund should be credited to the same account.

Respectfully submitted,

By: 

Douglas A. Sorensen
Registration No. 31,570
Agent for Applicants

DAS/lb:bar
SIDLEY AUSTIN LLP
717 N. Harwood, Suite 3400
Dallas, Texas 75201
Direct: (214) 981-3482
Main: (214) 981-3300
Facsimile: (214) 981-3400
April 5, 2007